

REMARKS

This is intended as a full and complete response to the Final Office Action dated June 24, 2009, having a shortened statutory period for response extended one-month set to expire on October 24, 2009.

Claims 1, 3-7, and 9-21 remain pending in the application after entry of this response. Claim 8 has been cancelled. New claim 21 has been added. Please reconsider the claims pending in the application for reasons discussed below.

Claim Rejections Under 35 U.S.C. § 112

Claims 1, 3-16, and 18-20 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Applicant has amended claim 1 to more distinctly claim aspects of the invention. Claim 1 now recites a polyisocyanate composition containing MDI and a polyether polyol. The Examples in the specification used RUBINATE®, which is within the scope of the MDI polyisocyanate composition, and RUBINOL®-015, which is within the scope of the polyether polyols. As amended, Applicant believes support for claims 1-20 are provided in the specification.

Claim 18 is rejected under 35 U.S.C. § 112, second paragraph.

Applicant has amended claim 18 to obviate the rejection.

Claim Rejections Under 35 U.S.C. § 103

Claims 1 and 3-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dempsey, et al. ('696) in view of Parks, et al. ('176) or Mackey ('553 or '528) and further in view of Gillis, et al. ('107 or '939). The Examiner states that Dempsey discloses EO mole content as high as 0.0053 which is sufficiently close to the claimed range that one of ordinary skill would expect the same properties. Additionally, the Examiner has rejected the showing of unexpected results because the showing is not commensurate in scope with the claims.

As acknowledged by the Examiner, Dempsey's EO mole content is similar to that of Example 6 in the present application. Example 6 produced 0.0052 moles EO/100 grams of total polymer while Example 7 produced 0.0058 moles. Although the difference between 0.0052 and 0.0058 may seem small, the difference in release properties is enormous. Specifically, Example 7 provided more than 294 consecutive releases while Example 6 only provided 129 consecutive releases, which is less than half of the releases of Example 7. Because Dempsey's 0.0053 EO mole content is similar to that of Example 6 (e.g., 0.0052), a person of ordinary skill would expect similar release properties, e.g., about 129 consecutive releases. A person of ordinary skill would not have expected a 0.0006 increase in EO mole content to result in an approximately two fold increase in consecutive releases. Accordingly, Dempsey neither teaches nor suggests the claimed surfactant having a high EO mole content, as recited in claim 1.

The surprisingly high number of releases achievable from embodiments of the present invention is unexpected and not taught by any of the cited references, including Parks, Mackey, and Gillis. Neither Parks nor Mackey produced more releases than Dempsey. Gillis taught a system providing more than 20 releases was considered above average. The combination of references would not have led one of ordinary skill to expect the high number of releases achieved by the Applicant. Accordingly, withdrawal of the rejection is respectfully requested.

Regarding the scope of the claims, as discussed above, amended claim 1 now recite a polyisocyanate composition containing MDI and a polyether polyol. The Examples used RUBINATE®, which is within the scope of the recited polyisocyanate composition containing MDI, and RUBINOL®-015, which is within the scope of the recited polyether polyol.

Further, the facts of the present application are different from *In re Greenfield*, cited by the Examiner, and thus are not applicable. In *In re Greenfield*, it was held that evidence of superior properties in one species is insufficient to establish the nonobviousness of a subgenus containing hundreds of compounds. In contrast, the unexpected results in the present application are directed to a particular EO mole

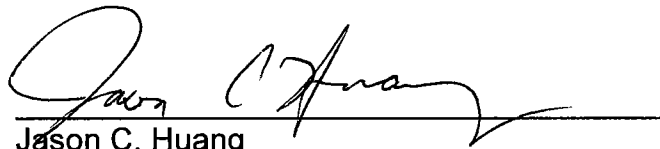
content, *i.e.* at least 0.0058 moles. This feature is recited in the claims. In this respect, the scope of the claims is not broader than at least 0.0058 moles. Thus, Applicant submits the claims are of sufficient scope with respect to the showing of unexpected results.

Conclusion

In conclusion, the references cited by the Examiner, alone or in combination, do not teach, show, or suggest the invention as claimed.

Having addressed all issues set out in the Final Office Action, Applicant respectfully submits that the claims are in condition for allowance and respectfully requests that the claims be allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jason C. Huang", is written over a horizontal line.

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